

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 JEROME CEASAR ALVERTO,

11 Petitioner,

12 v.

13 MIKE OBENLAND,

14 Respondent.

CASE NO. 3:19-CV-5212-RBJ-DWC

ORDER TO FILE SUPPLEMENTAL
RECORD

15 The District Court has referred this action filed under 28 U.S.C. § 2254 to United States
16 Magistrate Judge David W. Christel. On March 21, 2019, Petitioner Jerome Ceasar Alverto
17 initiated this action challenging his state court judgment and sentence. *See* Dkt. 1. After review
18 of the record, the Court directs Respondent to file a second supplemental state court record.


19 On February 27, 2020, the Washington State Supreme Court (“state supreme court”)
20 determined a state personal restraint petition (“PRP”) becomes final under Washington state law
21 when the certificate of finality is issued. *Certification from United States Court of Appeals, Ninth*
22 *Circuit in Phonsavanh Phongmanivan v. Haynes*, 458 P.3d 767, 770 (Wash. 2020).
23
24

1 In the Answer, Respondent asserts the Amended Petition is time-barred. Dkt. 22. The
2 statute of limitations period is tolled while a properly filed PRP is pending and the limitations
3 period begins to run again when the PRP becomes final. *See* 28 U.S.C. § 2244(d)(2); *Pace v.*
4 *DiGulielmo*, 544 U.S. 480, 410 (2005); *Corjasso v. Ayers*, 278 F.3d 874, 879 (9th Cir. 2002).
5 Here, Petitioner filed multiple PRPs in the state court. The record, however, does not appear to
6 contain the certificates of finality for any of Petitioner's PRPs. *See* Dkt. 23. As the state supreme
7 court has determined a PRP is final when the certificate of finality is issued, the certificate of
8 finality for each PRP is necessary to calculate the tolling periods in this case.

9 Therefore, the Court directs Respondent to file a second supplemental state court record.
10 The second supplemental state court record should include the certificates of finality for each PRP.
11 Respondent shall also provide a brief explaining which certificate of finality corresponds with each
12 PRP in the state court record. The Court directs Respondent to file the second supplemental state
13 court record and brief on or before May 1, 2020. The Court will not accept any other additional
14 briefing at this time.

15 The Clerk is directed to re-note the Amended Petition (Dkt. 18) for consideration on May
16 1, 2020.

17 Dated this 27th day of March, 2020.

18
19 

20 David W. Christel
21 United States Magistrate Judge
22
23
24